Remarks/Arguments

Reconsideration of this application, as amended is respectfully requested.

The Examiner has brought applicants' attention to the fact that a copy of the German Patent Office search report was not included with the Information Disclosure Statement, as stated by applicants'. This oversight is regretted and the search report accompanies this amendment.

The Examiner has objected to the abstract because the first line contains the phrase "The invention concerns". A new abstract has been filed which eliminates this phrase, and which makes other changes which are thought to more clearly describe the disclosure.

Claims 1,3, 4 and 6-8 remain in this application.

Claims 1,3, 4 and 7 are under a rejection based on 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,241,371 to Horeth. This rejection is thought in error as Horeth does not disclose the channel and guide element defined by claim 1.

Specifically, among other structure, claim 1 requires a crop conveying channel of a harvesting machine to include a wall containing an opening, **which is symmetrical about a central axis** and through which crop samples may be withdrawn, a guide element **shaped complementary to said opening and being mounted to the conveying channel** for **pivoting about said central** axis between a sample withdrawal position in which it frees the opening for permitting a crop sample to move through, and projects into the channel so as to deflect crop through, the opening, and a closed position, wherein the guide element **is located within said opening** so as to prevent crop from moving though said opening.

Horeth discloses a sampling device including a sampler tube 11 for withdrawing drill cutting samples from a drill cutting flow line 12. The flow line 12 is provided with an opening in which a ring-shaped adapter 26 is **welded**. A sleeve 24 includes a flange 25 fastened to the adapter 26 so that the interior of the sleeve 24 provides access to the interior of the flow line 12. The sampler tube 11 extends through the sleeve 24 and is secured at a desired position by set screws 28 provided in the sleeve 24. The end of the sampler tube 11 that is within the flow line 12 is cut at a 45° angle and has a flapper valve 13 pivotally mounted to the sampler tube 11 for selectively covering and uncovering the end, with the end being oriented so as to receive a sample of cuttings when the flapper valve 13 is open. Opening of the flapper valve 13 is done through a linkage 15 including a rod mounted for sliding

within a bushing 27 mounted in the flange 25 of the sleeve 24.

Thus, it is clear that the flapper valve 13 **is not mounted to the conveying channel** (flow line 12) nor is it mounted for movement to a closed position **wherein it covers the opening** (note that material collected in the tube 11 to an elevation above that of the opening in the flow line 12 will pass through the opening after the flapper valve 13 is closed and the flapper valve 14 opened) **nor is the flapper valve shaped complementary to the opening in the flow line 12**. Accordingly, claim 1 and claims 3, 4, 6 and 7, which have been amended to depend directly from claim 1, are thought allowable over Horeth.

Applicant notes that U.S. Patent No. 4,026,154, listed in the Information Disclosure Statement filed with the instant application, discloses (FIG. 2) a guide element 35 that is mounted for pivoting about a pivot axis 37, bordering one side of a sample withdrawal opening 42 provided in a crop conveying channel, between a closed position, wherein the guide element 35 is located approximately within the opening, and a withdrawal position, wherein the guide element 35 projects upstream into the channel and deflects a crop sample through the opening. Claim 1 is thought to define over this reference due to the requirement that the sample withdrawal opening be shaped symmetrically relative to a central axis and that the guide element be shaped complementary to the opening and mounted for pivotal movement about the central axis. Paragraph **[0009]** of applicants' specification states why this particular shape is beneficial and not just a design choice.

Claim 1 is additionally under a rejection based on 35 U.S.C. 102(b) as being anticipated by U.S. Patent No 6,119,531 to Wendte et al. As now presented, claim 1 is thought to define subject matter which is patentable over Wendte et al.

Specifically, claim 1 requires the guide element to project into the conveying channel and deflect crop material through the withdrawal opening when the deflector element is moved into its sample withdrawal position.

As concerns the disclosure of Wendte et al., it is clear that the slidably mounted element 218 is not pivotally mounted nor does it project into the conveying channel 140 when moved to its sample withdrawal position, nor could it, since the auger 142, which is located in the channel 140, would interfere with such an operation.

For these reasons, claim 1 is thought allowable over Wendte et al.

Claims 3, 4 and 6-8 are under a rejection based on 35 U.S.C. 103(a) as being unpatentable over Wendte et al. '531 in view of U.S. Patent No. 5,959,218 to Strubbe and Horeth. It is respectfully submitted that this rejection is in error as the applied prior art does not make obvious the proposed combination for meeting the terms of the claims.

Claims 3, 4 and 6-8 have been amended to depend directly from claim 1 and are thought allowable for the same reasons stated above for the allowance of claim 1 over the rejection as being unpatentable over Wendte et al. alone, since neither Strubbe nor Horeth teach what is absent from Wendte et al., i.e., the idea of providing a guide element which, when closed, blocks the sample withdrawal opening in the crop conveying channel, and which, when in its withdrawal position, opens the withdrawal opening and projects into the conveying channel so as to deflect crop material so that it passes through the opening.

While the Examiner has used Horeth as a teaching to use a pivoting guide element to aid in the withdrawal of samples, it is respectfully submitted that the proposed modification of Wendte et al. in view of this teaching would not have been obvious to one skilled in the art at the time the invention was made since there is no teaching of using the flapper valve to cover an opening in a wall of a material conveying channel, and even assuming such would have been obvious, it certainly would not have been obvious to have mounted the flapper valve for movement into the flow of material since the auger 142 will not permit it.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested.

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Respectfully,

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